Protection of Traditional Cultural Expressions of the North Sulawesi Community Against Unauthorized Use for Commercial Purposes

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Abstract

This study examines the legal protection of traditional cultural expressions (TCEs) of North Sulawesi communities, which are frequently exploited without authorization for commercial purposes. Such exploitation raises significant legal issues, particularly concerning intellectual property rights violations and the neglect of the collective rights of Indigenous communities. The objective of this research is to analyze the existing legal framework for protecting TCEs and to propose a more adaptive and equitable model of legal protection. This is a normative legal study employing statute, conceptual, and case approaches. Data were analyzed qualitatively and descriptively through literature review and legal document analysis. The novelty of this research lies in its proposed community-based legal protection model that integrates customary law principles with national legislation and international cultural rights standards. The findings reveal that the current legal protections are fragmented and do not yet provide optimal safeguards for Indigenous TCEs. The study recommends the development of a more comprehensive legislative framework, the strengthening of local government roles, and the establishment of protection mechanisms based on the active participation of Indigenous communities.

I. Introduction

The protection of traditional cultural expressions (TCEs) is a crucial element in preserving the nation's cultural heritage and respecting the collective rights of Indigenous communities (Lestari & Ibrahim, 2025). EBT includes various forms of cultural manifestations that originate from the identity of indigenous communities, such as dance, music, fine arts, handicrafts, traditional architecture, traditional clothing, religious rites, and folk tales (Khumairoh et al., 2022). Traditional cultural expressions (TCEs) are not only culturally and spiritually valuable, but also hold significant economic potential if developed responsibly. However, in the context of globalization and the growth of the creative industries, there is a phenomenon of unauthorized exploitation of TCEs, ultimately harming the communities of origin and threatening the sustainability of these cultures.

Internationally, various legal instruments have attempted to regulate the protection of TCEs. The 2003 UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage is a significant milestone, encouraging countries to protect, respect, and promote intangible cultural heritage, including TCEs (Mangku, 2021). In addition, WIPO (World Intellectual Property Organization), through its Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, has developed various working documents to support the protection of TCEs based on intellectual property rights (Samsithawrati et al., 2024). However, to date, there is no binding international legal instrument specifically for the protection of TCEs, resulting in partial and varying legal protection in different countries.

At the national level, Indonesia has demonstrated its commitment to the protection of TCEs through various laws and regulations. Law No. 28 of 2014 on Copyright stipulates that creations originating from traditional culture and whose creators are unknown are protected as state property, with the state authorized to manage them (Sriwiningsih, 2021). Furthermore, Law No. 5 of 2017 on the Advancement of Culture contains principles of recognition, protection, development, and utilization of national cultural elements, including TCEs (Kusuma & Roisah, 2022). The government has also compiled a national inventory list as an effort to document renewable energy (Susanto et al., 2025). However, the implementation of these regulations often faces challenges in law enforcement and supervision at the regional level.

Furthermore, several sectoral regulations are also related to the protection

of TCEs, such as Law No. 11 of 2010 on Cultural Heritage, and Regulation of the Minister of Law and Human Rights No. 13 of 2021 on Geographical Indications, which can include products based on local culture. These instruments reflect a diverse but still not comprehensively integrated legal framework. The absence of a specific positive law that fully protects traditional cultural expressions as the inalienable collective rights of Indigenous communities presents a unique challenge in the context of TCE protection in Indonesia.

In a local context, North Sulawesi possesses a rich and unique diversity of TCEs. Tribes such as Minahasa, Bolaang Mongondow, Sangihe, Talaud, and Gorontalo have strong traditions in dance, music, traditional ceremonies, traditional textiles, distinctive cuisine, and even wood carving and traditional house architecture (Sari, 2023). The Minahasa Kabasaran dance, for example, is a traditional war dance that has sacred meaning and strong social identity (Rahman, 2023). Bamboo music from Minahasa and Sangihe is an integral part of various traditional ceremonies and community celebrations (Awumbas, 2024). The ikat woven cloth of Bolaang Mongondow, and the distinctive weaving of Talaud, also possess high historical and aesthetic value.

Furthermore, the TCEs of North Sulawesi also encompass various oral traditions, such as folk tales, pantuns (Malay rhyming couplets), and ritual chants. The folk tale of Toar-Lumimuut, a mythological figure of the Minahasa people, is an important part of the local identity narrative (Warouw & Claudia, 2023). Likewise, various forms of traditional culinary, such as tinutuan (Manadonese porridge), are not only a culinary heritage but also part of a cultural expression passed down across generations (Olii et al., 2022). Unfortunately, with the development of tourism and the creative industries, many of these TCEs are being exploited by third parties without adequate permission or recognition of the communities of origin.

Legal issues arising from the commercial use of North Sulawesi's TCEs without permission encompass several aspects. First, there is a disregard for the moral and economic rights of Indigenous communities over their TCEs. Many textile motifs, dances, songs, and cultural products are used by businesses without involving the Indigenous communities as holders of collective rights. Second, there is ambiguity regarding the legal status of who is authorized to grant permission for the use of TCEs, due to the lack of detailed regulations concerning the management of these collective rights in existing laws.

Third, there is the practice of counterfeiting and commercialization of TCEs that is inconsistent with the cultural context and spiritual values. For example, some sacred dances are performed in commercial settings without respect for their original meaning. Fourth, the unequal bargaining power

between Indigenous communities and businesses exacerbates the situation, where local communities often lack legal knowledge or access to defend their rights over commercialized TCEs.

Fifth, weak mechanisms for supervision and law enforcement at the regional level lead to widespread unauthorized exploitation of TCEs. Many cases of TCE exploitation go unreported or unprosecuted due to the lack of awareness among Indigenous communities or the limited capacity of local governments. Sixth, the absence of a comprehensive and verified database of North Sulawesi's TCEs is also an obstacle, as clear identification of the TCEs owned and their usage limitations is necessary in legal practice.

Seventh, there are also problems in adapting the national legal framework to the principles of customary law that are alive in the community. Many TCEs have sacred meanings and are governed by customary norms, so the application of state positive law instruments is often inconsistent with these customary principles. The conflict between the formal legal system and customary law is a crucial part of the legal issues that must be addressed in formulating a fairer protection model.

Providing protection for TCEs is crucial, as TCEs are an inseparable part of the cultural identity and self-identity of Indigenous communities. (Isdiyanto & Putranti, 2021). Through effective legal protection, the collective rights of Indigenous communities over their cultural heritage can be guaranteed, while preventing exploitative practices that harm local communities. Furthermore, the protection of TCEs is also part of the effort to preserve national cultural diversity, a crucial asset in strengthening the nation's character (Susanti, 2022).

Furthermore, the protection of TCEs has an undeniable economic dimension. With good management and based on the participation of Indigenous communities, TCEs can become a sustainable source of livelihood for local communities. Through a community-based protection model, the economic benefits of TCEs can be fairly enjoyed by the communities who own the culture, while also promoting ethical and sustainable creative economic development.

The provision of legal protection for TCEs is part of Indonesia's commitment to human rights principles, particularly the rights of Indigenous peoples as stipulated in the 2007 UN Declaration on the Rights of Indigenous Peoples (UNDRIP) (Sambeta, 2021). Recognition, respect, and protection of TCEs will strengthen the position of Indigenous communities within the national legal system, while promoting a more inclusive social and cultural justice.

Based on the background above, the research questions are as follows:

1. How is the legal regulation of the protection of traditional cultural expressions of the North Sulawesi community from unauthorized commercial use?
2. What is an appropriate community-based legal protection model for the TCEs of the North Sulawesi community?

Previous research on the protection of traditional cultural expressions has been extensively conducted. First, research by Lestari Lakalet and Adolfina S. Moybeka in the Madaniya Journal examined efforts to preserve and strengthen traditional cultural expressions (TCEs) amidst modernization. The research object was various forms of TCEs in Waimi Village, including traditional rituals, dance, music, traditional clothing, and oral traditions. The aim of this research was to analyze the revitalization steps taken by the community and village government to maintain the sustainability of their cultural heritage. The research method used a qualitative approach with data collection techniques in the form of interviews, observations, and documentation. The research results showed that the involvement of young people in cultural activities, the strengthening of customary institutions, and the support of village government programs are key factors in the success of TCE revitalization. The research recommendations emphasize the importance of synergy between Indigenous communities, local governments, and third parties (cultural institutions) in creating a sustainable TCE management model (Lakalet & Moybeka, 2025).

Second, research conducted by Salsabilla Ade Viola and Simona Bustani in the Amicus Curiae *Journal focused on Yogyakarta batik*, viewed as a TCE with high cultural and economic value. This research aimed to examine how national legal regulations protect Yogyakarta batik as a TCE, and to identify weaknesses in the existing regulations. The method used was normative research with a statutory approach and a case approach. The research results showed that although there is legal recognition of batik as a protected TCE, the regulations concerning the collective rights of batik-making communities are still not comprehensive, especially regarding licensing mechanisms and protection against commercial exploitation by third parties. The research recommendations propose the drafting of more specific local regulations, increased legal awareness among batik makers, and strengthened legal protection based on batik-making communities (Viola & Bustani, 2025).

This research offers novelty by focusing on the TCEs of the North Sulawesi community, which have not been extensively studied in previous legal literature, especially from the perspective of regulating protection from unauthorized commercial use. Furthermore, this research not only examines existing legal regulations but also proposes a community-based protection

model integrated with customary law, national law, and international norms. This approach provides a new contribution to the development of the legal protection concept for TCEs in Indonesia, which has hitherto tended to be sectoral and has paid insufficient attention to the active role of Indigenous communities. This research aims to analyze national and international legal regulations governing the protection of North Sulawesi's TCEs from unauthorized commercial use and to formulate a community-based legal protection model that is appropriate to the characteristics of North Sulawesi's TCEs, thereby providing optimal and equitable protection for the owners of cultural rights.

2. Research Method

The research method used in this study is normative legal research. Normative research was chosen because the focus of the study lies in the analysis of legal norms governing the protection of traditional cultural expressions (TCEs), both in national legislation and international legal instruments. This research does not examine the effectiveness of law enforcement in the field, but focuses on the examination of principles, concepts, theories, and applicable legal regulations. In this context, the TCEs of the North Sulawesi community are examined as a normative object with legal regulations that can be analyzed systematically. Thus, this research aims to provide a conceptual contribution to the development of a legal protection model for TCEs.

The research approaches used include a statutory approach, a conceptual approach, and a case approach. The statutory approach is used to examine national legislation, such as the Copyright Law, the Cultural Advancement Law, and other related legal instruments. The conceptual approach is used to analyze legal theories on the protection of the collective rights of Indigenous communities and the protection of TCEs. The case approach is used to examine case studies of the use of North Sulawesi's TCEs in practice. These three approaches are used integratively to provide a comprehensive analysis.

Data collection techniques in this research were conducted through library research. Data were obtained from various legal sources, such as legislation, international legal documents, scientific literature, books, law journals, and relevant previous research results. In addition, court decisions, news articles, and reports related to cases of commercial use of TCEs in North Sulawesi were also examined. This secondary data was carefully analyzed to identify applicable legal regulations and issues arising in practice. All data sources were critically examined to obtain a complete understanding of the research problem.

Data analysis was conducted using a qualitative-descriptive method. The collected data were analyzed by identifying, categorizing, and interpreting relevant

legal norms. The analysis was conducted to find gaps, weaknesses, or strengths in the existing legal regulations regarding the protection of TCEs. Furthermore, legal argumentation was constructed to formulate a community-based legal protection model appropriate to the characteristics of the TCEs of the North Sulawesi community. The results of this analysis are expected to provide theoretical and practical contributions to the development of TCE protection law in Indonesia.

3. Results and Discussion

Protection of Traditional Cultural Expressions of the People of North Sulawesi from Commercial Use Without Rights

Traditional cultural expressions (TCEs) are an inseparable part of the identity and existence of an Indigenous community. TCEs encompass various forms, ranging from dance, music, visual arts, traditional rituals, to folk tales, inherited across generations as a living cultural heritage. North Sulawesi, comprised of various tribes such as Minahasa, Bolaang Mongondow, Sangihe, Talaud, and Gorontalo, possesses a rich diversity of TCEs. However, in the era of globalization and commercialization, these TCEs face various threats, including exploitation by unauthorized parties, without recognition or compensation to the cultural owners. Therefore, adequate legal protection is crucial to ensure the sustainability, respect, and justice for Indigenous communities.

Unauthorized commercial use not only impacts the loss of economic potential for Indigenous communities but also damages the sacred meaning and cultural values contained within these TCEs (Aptasari et al., 2024). In North Sulawesi, various renewable energy sources are starting to be promoted in the tourism, media and creative product industries, but often without directly involving indigenous communities (Siwi et al., 2024). Hal This creates an imbalance of power between businesses and Indigenous communities as the rightful owners of the culture. Therefore, formulating a community-based, inclusive, and equitable approach to legal protection is essential. This study is presented to fill this gap, offering a legal analysis and relevant conceptual proposals for the protection of TCEs in North Sulawesi.

In the international arena, the protection of TCEs remains largely declarative and not yet bound by binding agreements. One of the most frequently cited international instruments is the 2003 UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage, which acknowledges the importance of the preservation of TCEs by state parties (Triadi et al., 2025). Furthermore, the WIPO forum has long developed the concept of protecting TCEs through an intellectual property rights approach, although to date there is no directly binding international instrument (Putra, 2022). Instruments such as the UN Declaration on

the Rights of Indigenous Peoples (UNDRIP) also emphasize that indigenous peoples have collective rights over their cultural heritage (Maulana et al., 2025). Nevertheless, the effectiveness of protection still depends on implementation at the national legal level of each country.

In Indonesia, the protection of TCEs has been generally regulated in several laws. Law Number 28 of 2014 concerning Copyright recognizes the protection of works originating from traditional culture, although it approaches this as a state right (Mufidati & Setiawati, 2025). Meanwhile, Law Number 5 of 2017 concerning the Advancement of Culture broadens the scope of recognition and preservation of TCEs, including the rights of Indigenous communities in the development and utilization of their culture (Wardani, 2024). However, there is no lex specialis specifically regulating the collective rights over TCEs in the context of commercial exploitation. As a result, existing protection tends to be declarative without operational protection mechanisms at the practical level. This is one of the challenges that must be addressed in developing a more effective legal protection model.

Indigenous communities in North Sulawesi are rich in traditional cultural expressions that are alive and thriving within their social lives. The Kabasaran dance of Minahasa, which originally functioned as a war dance and held sacred meaning, is now an important symbol of cultural identity (Nismawati et al., 2021). Bamboo music played in various traditional rituals in Minahasa and the Sangihe-Talaud Islands is also part of a cultural expression rich in meaning and historical value (Sunarto et al., 2024). Besides performing arts, there are also various forms of visual arts and handicrafts, such as the carved motifs on traditional Minahasa houses and the Bolaang Mongondow ikat weaving, which have specific patterns and philosophical meanings. All these TCEs are not merely art products, but integral parts of the social system and beliefs of Indigenous communities.

Amidst modernization and tourism promotion, the TCEs of North Sulawesi communities are now often used for promotional purposes, whether in tourism events, cultural festivals, or creative economic products (Rogahang et al., 2023). Unfortunately, however, many of these uses are carried out without permission or recognition of the rights of the owning communities. For example, the use of traditional fabric motifs in commercial clothing designs or the use of the Kabasaran dance in tourism events without involving local customary institutions or communities. A lack of understanding of the sacred meaning of TCEs often results in cultural distortion. Therefore, understanding the characteristics and diversity of these TCEs is crucial as a basis for designing legal protection policies that are appropriate to the local context.

The use of North Sulawesi's TCEs for commercial purposes without the consent of Indigenous communities has become a rather worrying phenomenon (Lanjahi et al., 2023). One example is the use of designs or motifs carved on traditional Minahasa houses, which are modified into commercial product logos without permission or profit sharing with the Indigenous community. Furthermore, the use of traditional weaving motifs or distinctive designs on modern fashion products marketed widely, even for export, is also frequently found (Samuel et al., 2022). The involvement of Indigenous communities in the creative process or decision-making is almost never seen in these practices. Information inequality and the lack of understanding among Indigenous communities about their rights to TCEs worsen this situation.

Cultural performance practices face similar problems. The Kabasaran dance, which has sacred value, is often performed outside of its customary context or even in commercially-oriented events, without consultation or permission from customary institutions. Similarly, traditional bamboo music is recorded or rearranged for tourism purposes without the involvement of the owning community. Cases like these reflect the weak recognition of the collective rights of Indigenous communities to their cultural expressions. Without clear legal protection, such violations will continue and can damage the cultural heritage that should be respected and preserved.

Law Number 28 of 2014 concerning Copyright includes provisions on the protection of traditional cultural expressions in Article 38. However, this regulation tends to place the state as the rights holder, without a mechanism for the participation of Indigenous communities in management and decision-making. On the other hand, Law Number 5 of 2017 concerning the Advancement of Culture acknowledges the role of Indigenous communities in preserving and advancing TCEs. However, this law is more of a cultural policy and does not contain specific regulations on mechanisms for legal protection from commercial use. As a result, there is a legal vacuum that makes it difficult for Indigenous communities to fight for their rights concretely.

In addition to these two laws, other regulations such as the Cultural Heritage Law and regulations related to intellectual property do not specifically regulate the protection of collective rights over TCEs. This causes inconsistency between normative recognition and implementation in the field. In the context of North Sulawesi, there are no local regulations that specifically regulate the protection of Indigenous community TCEs. The lack of strong legal protection impacts the weak legal position of Indigenous communities in facing violations of their cultural expressions. Therefore, the development of legal policies that are more assertive, participatory, and sensitive to local cultural characteristics is needed.

One fundamental weakness in the protection of TCEs in Indonesia is the approach that still refers to the concept of individual-based intellectual property. This approach is less relevant when applied to traditional culture, which is collective and communally inherited. The collective rights of Indigenous communities to TCEs cannot be equated with individual copyrights that have a specific time limit. As a result, in current legal practice, there is often confusion in determining who has the right to grant permission for use or who can object to violations. This shows a gap between the applicable norms and the real needs in the field.

Furthermore, the weak supervisory mechanisms and recognition of customary institutions as the rightful owners of TCEs further exacerbate the situation. Many Indigenous communities in North Sulawesi do not have access to or understanding of the process of registering TCEs or the available legal protection mechanisms. The lack of a valid and verified database on TCEs in this region is also a constraint in the protection process. Without clear data, local governments and law enforcement agencies also have difficulty in taking action against violations. Therefore, strengthening the role of customary institutions, documenting TCEs, and providing legal education to Indigenous communities are important steps in improving this situation.

Theoretically, the right to traditional cultural expressions (TCEs) is inherent as part of the collective rights of Indigenous communities, not as individual rights (Nendrawan & Rastika, 2021). This collective right includes the right to determine how TCEs are used, when and in what context they can be publicized, and the right to obtain economic benefits from their use (Enggriyeni et al., 2024). The UN Declaration on the Rights of Indigenous Peoples (UNDRIP 2007) clearly states that Indigenous peoples have the right to control, protect, and develop their cultural heritage, including TCEs (Setiawan, 2023). In the Indonesian context, although the recognition of customary law communities is regulated in various regulations, its implementation in protecting collective rights to TCEs remains minimal. The applicable intellectual property law favors an individual approach, often making it irrelevant for protecting these collective rights.

In North Sulawesi, Indigenous communities such as the Minahasa, Sangihe, and Bolaang Mongondow still have vibrant and active customary structures (Nicodemus, 2023). However, their collective rights to TCEs are not fully recognized in the national legal system. Consequently, when TCEs are commercially exploited without permission, Indigenous communities lack strong legal instruments to sue or object. Many Indigenous communities are even unaware that they possess legal rights over this hereditarily passed-down culture. Therefore, strengthening the recognition of collective rights and their application

in positive Indonesian law is an urgent need so that the protection of TCEs can be carried out fairly and contextually.

Customary law in North Sulawesi plays a vital role in regulating and preserving traditional cultural expressions. Many Indigenous communities have their own rules governing who is entitled to perform certain dances, when traditional music is played, or how sacred traditional fabric motifs are used. These customary rules are substantively far more detailed and relevant than the formal regulations applicable nationally. However, because they have not been operationally integrated into the national legal system, the existence of customary law lacks enforcement power in the face of state law. Yet, harmonious integration between customary law and national law would strengthen the protection of TCEs.

Indigenous communities also play a role as direct supervisors of the use of TCEs. Unfortunately, without adequate regulatory support, the position of Indigenous communities in controlling the use of TCEs is weakened in the face of businesses or third parties. In many cases, Indigenous communities are not involved at all in the decision-making process regarding the commercialization of TCEs. Therefore, strengthening the capacity of customary institutions and formal recognition of the authority of Indigenous communities in managing TCEs must be part of the legal protection strategy. Thus, TCEs are not only seen as mere cultural assets but also as rights that must be respected and protected.

Several regions in Indonesia have developed quite progressive initiatives in the protection of TCEs. Yogyakarta, for example, has enacted a Regional Regulation that protects batik as a traditional cultural expression and as a collective identity of the community (Asri, 2018). Beyond formal recognition, batik-making communities in Yogyakarta are also given an active role in regulating permits for use and the distribution of benefits from the commercialization of batik (Wicaksono, 2016). The same thing is seen in Bali, where traditional villages have strong institutions to protect traditional performing arts and rituals from commercial exploitation (Wilantara, 2024). These local initiatives demonstrate that the protection of TCEs can be formulated through synergy between national law, regional regulations, and customary institutions.

The lessons from other regions are highly relevant for application in North Sulawesi. With its equally important cultural richness, North Sulawesi has great potential to develop a community-based model for protecting TCEs. However, this requires responsive regional regulations and the strengthening of customary institutions at the local level. This comparative study shows that when Indigenous communities are given a real role in the management and protection of TCEs, the results are more effective and sustainable. Therefore, strengthening the capacity of Indigenous communities and developing locally-based policies must be a priority

in the protection of TCEs in North Sulawesi.

The protection of traditional cultural expressions of the North Sulawesi community faces various challenges, ranging from legal vacuums and weak recognition of collective rights to a lack of strengthening of customary institutions. The commercial use of TCEs without permission continues to occur due to unclear regulations and power imbalances between businesses and Indigenous communities. Therefore, a comprehensive legal policy is needed, which not only relies on an individual-based intellectual property approach but also integrates the recognition of the collective rights of Indigenous communities. In addition, customary law must be recognized as a relevant source of law in the regulation and protection of TCEs.

The success of other regions in protecting TCEs through regional regulations and strengthening Indigenous communities can be an inspiration for North Sulawesi. With the active role of local governments, customary institutions, and the community, the protection of TCEs can be achieved more fairly and sustainably. This study shows that to achieve this, harmonization is needed between national law, local regulations, and customary law that is alive in society. Ultimately, the protection of TCEs is not merely a legal matter, but also an effort to maintain cultural identity, social justice, and the sustainability of the nation's cultural heritage.

Community-Based Legal Protection Model for EBT of North Sulawesi Community

Legal protection models for traditional cultural expressions (TCEs) must be adapted to the characteristics and needs of the Indigenous communities that own them (Khumairoh et al., 2022). In North Sulawesi, TCEs are not merely cultural products, but an integral part of the identity, spirituality, and social structure of Indigenous communities. Therefore, a top-down model or one solely based on modern intellectual property rights approaches will not be effective. A more appropriate approach is a community-based one, a protection model that recognizes the collective rights of Indigenous communities as the primary subjects in the management and decision-making regarding their TCEs. In this way, sustainability, justice, and respect for cultural meaning can be ensured.

Experiences from various regions in Indonesia show that the protection of TCEs that is not community-based often fails to prevent exploitation and the destruction of cultural meaning. Conversely, when Indigenous communities are involved as primary managers, the level of TCE protection increases significantly (Tan et al., 2025). Therefore, building a community-based

protection model for the people of North Sulawesi is a necessity. This model must be able to accommodate the existing customary legal system, bridge it with national law, and allow for the active participation of Indigenous communities. In addition, the model must be flexible and responsive to the changing times so that TCEs remain relevant and sustainable.

A community-based legal protection model must be built on the principles of recognition, participation, empowerment, and justice (Prayuda et al., 2023). Recognition means recognizing the collective rights of indigenous peoples to their EBT as legitimate legal subjects (Wijaya et al., 2024). Participation means that Indigenous communities play an active role in every process related to the use, development, or protection of TCEs (Herzani, 2020). Empowerment requires strengthening the capacity of indigenous communities to be able to manage renewable energy independently, including in terms of legal and economic aspects (Azus & Raharja, 2024). Justice demands that the economic benefits from the use of TCEs are fairly enjoyed by the Indigenous communities as the owners of the culture (Simatupang, 2015). These principles must be the primary foundation in designing an appropriate legal protection model.

Furthermore, an ideal protection model must be able to bridge the gap between living customary law, national law, and international provisions. TCEs, as part of a living cultural heritage, must be treated with an adaptive and contextual legal mechanism, not simply imposed within a rigid intellectual property regime. Therefore, the role of customary institutions as managers and protectors of TCEs needs to be formally strengthened in legislation. A community-based protection model must also include regulations regarding licensing, benefit sharing, and monitoring mechanisms, while still respecting the cultural values inherent in those TCEs. In this way, the sustainability of TCEs can be maintained and Indigenous communities obtain justice.

Customary institutions are the most appropriate institutions to be the primary managers in the protection of TCEs. In North Sulawesi, almost all Indigenous communities still have active customary institutions, such as the Minahasa Customary Council or customary leaders in Bolaang Mongondow and Sangihe-Talaud (Malanye et al., 2023). Customary institutions possess in-depth knowledge of the meaning, function, and value of TCEs within the socio-cultural context of the community. Furthermore, customary institutions have strong moral and social legitimacy among Indigenous communities, so decisions made will be respected and obeyed. Therefore, an effective legal protection model must grant formal authority to customary institutions in the management and supervision of TCEs.

The role of customary institutions also includes granting permits for the use of TCEs, both for customary purposes and for commercial purposes. This community-based licensing mechanism allows for direct control by the owners of the culture over every form of use of TCEs. In addition, customary institutions can also set conditions for the use of TCEs that are in accordance with cultural values, thus preventing distortion or misuse. To strengthen the role of customary institutions, formal recognition is needed through regional regulations or higher-level legislation. In this way, customary institutions not only function socially but also have a strong legal basis in the protection of TCEs.

One important aspect of a community-based protection model is the existence of a clear and transparent licensing mechanism. Licensing is necessary so that the use of TCEs, especially for commercial purposes, is carried out with the knowledge and consent of the Indigenous community. In the context of North Sulawesi, permits must be issued by the customary institution or body designated by the Indigenous community. This licensing mechanism must include provisions regarding the form of use, duration, appropriate compensation, and protection against the cultural meaning inherent in the TCEs. With community-based licensing, the collective rights of Indigenous communities will be better protected.

In addition to licensing, supervision is also an integral part of a community-based legal protection model. Supervision must actively involve the Indigenous community so that the use of TCEs is always in accordance with agreements and existing cultural values (Sofari, 2023). Customary institutions need the authority to impose moral or administrative sanctions for violations of licensing agreements. In addition, local governments must provide support in the form of facilitation, legal assistance, and joint supervision. In this way, supervision of the use of TCEs is not only formal but also based on local wisdom that respects the rights of Indigenous communities.

The use of TCEs, especially for commercial purposes, must provide fair economic benefits to the Indigenous communities as the owners of the culture. Therefore, a community-based legal protection model needs to regulate a proportional benefit-sharing mechanism. Any use of TCEs for business purposes, by businesses or the government, must be accompanied by the provision of appropriate compensation to Indigenous communities. This compensation can be in the form of royalties, grants, or other forms agreed upon jointly. Thus, the use of TCEs benefits not only third parties but also has a positive impact on the welfare of Indigenous communities.

Furthermore, the benefit-sharing mechanism must be managed transparently and accountably by the customary institution or legal entity formed by the community. Funds obtained from the use of TCEs can be used for cultural preservation activities, youth education, or community economic development. In the context of North Sulawesi, clear regulations regarding this economic benefit sharing will encourage the active participation of Indigenous communities in preserving and developing their TCEs. Thus, TCEs become not only cultural symbols but also a source of economic empowerment for Indigenous communities.

One important element in a community-based legal protection model is the strengthening of the capacity of Indigenous communities. In North Sulawesi, many Indigenous communities still lack understanding of their legal rights regarding traditional cultural expressions (TCEs). Therefore, there needs to be a legal literacy program focusing on collective rights to TCEs, licensing mechanisms, and the management of economic benefits. This legal education can be carried out through cooperation between customary institutions, local governments, universities, and civil society organizations. With better capacity, Indigenous communities will be able to take an active role in protecting their TCEs.

In addition to improving legal literacy, strengthening the capacity of Indigenous communities also includes developing institutional management. Customary institutions need to be strengthened to be able to manage licensing, supervision, and benefit sharing professionally and accountably. This can be done through training in administration, finance, and conflict management. Local governments need to facilitate this strengthening of customary institutions through affirmative policies. Thus, customary institutions will be better prepared to carry out the function of community-based legal protection effectively, so that the rights of Indigenous communities to TCEs can be well protected.

For community-based legal protection to be effective, the model developed in North Sulawesi needs to be harmonized with national legal provisions and international standards. The recognition of the collective rights of Indigenous communities to TCEs must be emphasized in regional regulations and integrated into national policies, such as the revision or improvement of the Copyright Law and Cultural Advancement Law. In addition, the protection model also needs to consider the principles stipulated in international instruments, such as the 2003 UNESCO Convention and the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). This harmonization is important so that community-based legal protection has broader legitimacy and reach.

In its implementation, this harmonization must still maintain the principle of participation of Indigenous communities. The legislative process at the regional and national levels needs to involve representatives of Indigenous communities so that the resulting regulations are in accordance with local needs and cultural values. The central government also needs to provide greater space for community-based local protection models, as a form of respect for cultural diversity and customary law in Indonesia. Thus, the protection of TCEs in North Sulawesi will have a strong legal basis, both at the local, national, and international levels.

The role of local governments is very important in supporting the implementation of a community-based legal protection model. Local governments can play a role in formulating regional regulations that provide formal recognition of the collective rights of Indigenous communities to TCEs. In addition, local governments can facilitate the process of inventorying and recording TCEs, which is an important basis for legal protection. Valid and verified data will help identify TCEs that need protection and prevent unilateral claims by third parties. Local governments can also play a role in building a local registration system managed jointly by customary institutions and the government.

In addition, local governments must also actively provide legal assistance to Indigenous communities in dealing with cases of violations of rights to TCEs. Legal aid services, administrative assistance, and mediation between Indigenous communities and businesses can be facilitated by local governments. Close cooperation between local governments and Indigenous communities is also important in building an effective monitoring mechanism. With strong support from local governments, the community-based protection model will be easier to implement in the field. This will provide stronger legal guarantees for Indigenous communities in protecting their TCEs.

A community-based legal protection model is the most appropriate approach to protecting the traditional cultural expressions (TCEs) of the North Sulawesi community. By recognizing the collective rights of Indigenous communities, strengthening the role of customary institutions, and creating a fair licensing and benefit-sharing mechanism, the protection of TCEs can be more effective. Harmonization between customary law, national law, and international standards will provide stronger legitimacy for this protection. The role of local governments is also very important in supporting the implementation of the protection model through affirmative policies and continuous assistance.

The protection of TCEs is not merely a legal matter, but also part of an

effort to maintain cultural identity, strengthen local wisdom, and promote social justice for Indigenous communities. With a community-based protection model, the TCEs of the North Sulawesi community can not only be protected from unauthorized commercial exploitation but can also develop sustainably and provide fair benefits to the owners of the culture. This study is expected to serve as a conceptual basis for the formulation of more responsive and contextual legal policies in protecting the nation's cultural heritage.

4. Conclusion

Legal protection of traditional cultural expressions (TCEs) of the North Sulawesi community from unauthorized commercial use still faces many challenges, both in terms of national regulations and on-the-ground practices. The existing legal framework, such as the Copyright Law and the Cultural Advancement Law, does not adequately regulate the protection of the collective rights of Indigenous communities to TCEs. The practice of third parties using TCEs without permission or recognition of the Indigenous community is still widespread, due to clear legal loopholes and weak recognition of the role of customary institutions. Therefore, a more contextual and community-based legal approach is needed so that TCEs, as part of the identity and cultural heritage of Indigenous communities, can be protected fairly and sustainably.

A community-based legal protection model is the most appropriate approach for the TCEs of the North Sulawesi community. This model must be built on the recognition of the collective rights of Indigenous communities, the strengthening of the role of customary institutions as primary managers, and a fair mechanism for licensing, supervision, and benefit sharing. Harmonization with national law and international standards is essential so that the resulting legal protection has legitimacy and sustainability. In addition, strengthening the capacity of Indigenous communities and the active role of local governments are key to the successful implementation of this protection model. With a community-based approach, it is hoped that the TCEs of the North Sulawesi community will not only be protected from unauthorized commercial exploitation but can also develop sustainably and benefit the owners of the culture.

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